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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

LUX ALVARADO, *individually and on behalf of all  
others similarly situated,*

Plaintiff,

-against-

ZYARA RESTURANT CORP. D/B/A ZYARA  
RESTAURANT and FERAS ALZUGHIER,

Defendants.

Civil Action No.: 21-cv-03432 (ENV)(JRC)

**ANSWER**

Defendants ZYARA RESTURANT CORP. and FERAS ALZUGHIER, (collectively, “Defendants”), by their attorneys, Helbraun & Levey, LLP, answer the Complaint of Plaintiff, LUX ALVARADO, individually and on behalf of all others similarly situated, as follows:

**NATURE OF ACTION**

1. Paragraph 1 of the Complaint contains multiple allegations. Defendants aver that Paragraph 1 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 1 of the Complaint.

2. Defendants admit the allegations in Paragraph 2 of the Complaint.

3. Paragraph 3 of the Complaint contains multiple allegations. Defendants aver that Paragraph 3 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 3 of the Complaint.

4. Defendants admit the allegations in Paragraph 4 of the Complaint.

5. Defendants admit the allegations in Paragraph 5 of the Complaint.

6. Defendants deny the allegations in Paragraph 6 of the Complaint.

7. Defendants deny the allegations in Paragraph 7 of the Complaint.

8. Defendants deny the allegations in Paragraph 8 of the Complaint.

9. Defendants deny the allegations in Paragraph 9 of the Complaint.

10. Defendants deny the allegations in Paragraph 10 of the Complaint.

11. Defendants deny the allegations in Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint contains multiple allegations. Defendants aver that Paragraph 12 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Defendants deny knowledge or information sufficient to determine the truth of the allegations in Paragraph 13 of the Complaint.

### **JURISDICTION AND VENUE**

14. Defendants aver that Paragraph 14 of the Complaint contains statements of law as to which no responsive pleading is required.

15. Defendants aver that Paragraph 15 of the Complaint contains statements of law as to which no responsive pleading is required.

### **PARTIES**

16. Defendants deny knowledge or information sufficient to determine the truth of the allegations in Paragraph 16 of the Complaint.

17. Paragraph 17 of the Complaint contains multiple allegations. Defendants aver that Paragraph 17 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact.

18. Defendants deny knowledge or information sufficient to determine the truth of the allegations in Paragraph 18 of the Complaint.

19. Defendants admit the allegations in Paragraph 19 of the Complaint.

20. Defendants admit the allegations in Paragraph 20 of the Complaint.

21. Paragraph 21 of the Complaint contains multiple allegations. Defendants aver that Paragraph 21 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact.

### **FACTUAL ALLEGATIONS**

22. Defendants admit the allegations in Paragraph 22 of the Complaint.

23. Defendants admit the allegations in Paragraph 23 of the Complaint.

24. Paragraph 24 of the Complaint contains multiple allegations. Defendants aver that Paragraph 24 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court

and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 24 of the Complaint.

25. Paragraph 25 of the Complaint contains multiple allegations. Defendants aver that Paragraph 25 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 25 of the Complaint.

26. Paragraph 26 of the Complaint contains multiple allegations. Defendants aver that Paragraph 26 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 26 of the Complaint.

27. Paragraph 27 of the Complaint contains multiple allegations. Defendants aver that Paragraph 27 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 27 of the Complaint.

28. Paragraph 28 of the Complaint contains multiple allegations. Defendants aver that Paragraph 28 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 28 of the Complaint.

29. Paragraph 29 of the Complaint contains multiple allegations. Defendants aver that Paragraph 29 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact.

30. Paragraph 30 of the Complaint contains multiple allegations. Defendants aver that Paragraph 30 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact.

31. Paragraph 31 of the Complaint contains multiple allegations. Defendants aver that Paragraph 31 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact.

32. Defendants admit the allegations in Paragraph 32 of the Complaint.

33. Defendants deny knowledge or information sufficient to determine the truth of the allegations in Paragraph 33 of the Complaint.

34. Paragraph 34 of the Complaint contains multiple allegations. Defendants aver that Paragraph 34 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 34 of the Complaint.

35. Defendants admit the allegations in Paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint contains multiple allegations. Defendants aver that Paragraph 36 of the Complaint contains conclusions of fact and/or conclusions of law as to

which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 36 of the Complaint.

37. Paragraph 37 of the Complaint contains multiple allegations. Defendants aver that Paragraph 37 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 37 of the Complaint.

38. Defendants deny the allegations in Paragraph 38 of the Complaint.

39. Defendants deny the allegations in Paragraph 39 of the Complaint.

40. Defendants deny the allegations in Paragraph 40 of the Complaint.

41. Defendants deny the allegations in Paragraph 41 of the Complaint.

42. Defendants deny the allegations in Paragraph 42 of the Complaint.

43. Defendants deny the allegations in Paragraph 43 of the Complaint.

44. Defendants deny the allegations in Paragraph 44 of the Complaint.

45. Defendants deny the allegations in Paragraph 45 of the Complaint.

46. Defendants deny the allegations in Paragraph 46 of the Complaint.

47. Defendants deny the allegations in Paragraph 47 of the Complaint.

48. Defendants deny the allegations in Paragraph 48 of the Complaint.

49. Defendants deny the allegations in Paragraph 49 of the Complaint.

50. Defendants deny the allegations in Paragraph 50 of the Complaint.

51. Defendants deny the allegations in Paragraph 51 of the Complaint.

52. Defendants deny the allegations in Paragraph 52 of the Complaint.

- 53. Defendants deny the allegations in Paragraph 53 of the Complaint.
- 54. Defendants deny the allegations in Paragraph 54 of the Complaint.
- 55. Defendants deny the allegations in Paragraph 55 of the Complaint.
- 56. Defendants deny the allegations in Paragraph 56 of the Complaint.
- 57. Defendants deny the allegations in Paragraph 57 of the Complaint.
- 58. Defendants deny the allegations in Paragraph 58 of the Complaint.
- 59. Defendants deny the allegations in Paragraph 59 of the Complaint.
- 60. Defendants deny the allegations in Paragraph 60 of the Complaint.
- 61. Defendants deny the allegations in Paragraph 61 of the Complaint.
- 62. Defendants deny the allegations in Paragraph 62 of the Complaint.
- 63. Defendants deny the allegations in Paragraph 63 of the Complaint.
- 64. Defendants deny the allegations in Paragraph 64 of the Complaint.
- 65. Defendants deny the allegations in Paragraph 65 of the Complaint.
- 66. Defendants deny the allegations in Paragraph 66 of the Complaint.
- 67. Defendants deny the allegations in Paragraph 67 of the Complaint.

#### **FLSA COLLECTIVE ACTION CLAIMS**

68. Paragraph 68 of the Complaint contains multiple allegations. Defendants aver that Paragraph 68 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. Defendants also deny that have knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 68 of the Complaint.

69. Paragraph 69 of the Complaint contains multiple allegations. Defendants aver that Paragraph 69 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 69 of the Complaint.

70. Paragraph 70 of the Complaint contains multiple allegations. Defendants aver that Paragraph 70 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 70 of the Complaint.

### **FIRST CAUSE OF ACTION**

(Violation of the Minimum Wage Provisions of the FLSA)

71. Defendants incorporate and reallege answers to Paragraphs 1-70 above.

72. Paragraph 72 of the Complaint contains multiple allegations. Defendants aver that Paragraph 72 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 72 of the Complaint.

73. Paragraph 73 of the Complaint contains multiple allegations. Defendants aver that Paragraph 73 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 73 of the Complaint.



74. Paragraph 74 of the Complaint contains multiple allegations. Defendants aver that Paragraph 74 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 74 of the Complaint.

75. Defendants deny the allegations in Paragraph 75 of the Complaint.

76. Defendants deny the allegations in Paragraph 76 of the Complaint.

77. Defendants deny the allegations in Paragraph 77 of the Complaint.

### **SECOND CAUSE OF ACTION**

(Violation of the Overtime Provisions of the FSLA)

78. Defendants incorporate and reallege their answers to Paragraphs 1-77.

79. Defendants deny the allegations in Paragraph 79 of the Complaint.

80. Defendants deny the allegations in Paragraph 80 of the Complaint.

81. Defendants deny the allegations in Paragraph 81 of the Complaint.

### **THIRD CAUSE OF ACTION**

(Violation of the New York Minimum Wage Act)

82. Defendants incorporate and reallege their answers to Paragraphs 1-81.

83. Paragraph 83 of the Complaint contains multiple allegations. Defendants aver that Paragraph 83 of the Complaint contains conclusions of fact and/or conclusions of law as to which no responsive pleading is required, and Defendants refer all questions of law to the Court and all questions of fact to the trier of fact. To the extent a response is required, Defendants deny the truth of the allegations contained in Paragraph 83 of the Complaint.

84. Defendants deny the allegations in Paragraph 84 of the Complaint.

85. Defendants deny the allegations in Paragraph 85 of the Complaint.

86. Defendants deny the allegations in Paragraph 86 of the Complaint.

**FOURTH CAUSE OF ACTION**

(Violation of the Overtime Provisions of the New York Labor Law)

87. Defendants incorporate and reallege answers to Paragraphs 1-86 above.

88. Defendants deny the allegations in Paragraph 88 of the Complaint.

89. Defendants deny the allegations in Paragraph 89 of the Complaint.

90. Defendants deny the allegations in Paragraph 90 of the Complaint.

**FIFTH CAUSE OF ACTION**

(Violation of the Spread of Hours Wage Order of the New York Commissioner of Labor)

91. Defendants incorporate and reallege answers to Paragraphs 1-90 above.

92. Defendants deny the allegations in Paragraph 92 of the Complaint.

93. Defendants deny the allegations in Paragraph 93 of the Complaint.

94. Defendants deny the allegations in Paragraph 94 of the Complaint.

**SIXTH CAUSE OF ACTION**

(Violation of the Notice and Recordkeeping Requirements of the New York Labor  
Law)

95. Defendants incorporate and reallege answers to Paragraphs 1-94 above.

96. Defendants deny the allegations in Paragraph 96 of the Complaint.

97. Defendants deny the allegations in Paragraph 97 of the Complaint.

**SEVENTH CAUSE OF ACTION**

(Violation of the Wage Statements Provisions of the New York Labor Law)

98. Defendants incorporate and reallege answers to Paragraphs 1-98 above.

99. Defendants deny the allegations in Paragraph 99 of the Complaint.

100. Defendants deny the allegations in Paragraph 100 of the Complaint.

### **EIGHTH CAUSE OF ACTION**

(Violation of the Timely Payment Provisions of the New York Labor Law)

101. Defendants incorporate and reallege answers to Paragraphs 1-101 above.

102. Defendants deny the allegations in Paragraph 102 of the Complaint.

103. Defendants deny the allegations in Paragraph 103 of the Complaint.

### **AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

104. Plaintiffs' claims are barred in whole or in part because the Complaint fails to state a claim upon which relief may be granted.

### **AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

105. Plaintiffs' claims in the Complaint are barred in whole or in part because Defendants acted in good faith.

### **AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

106. Plaintiffs' claims in the Complaint are barred in whole or in part because payment of wages by Defendants is made pursuant to a differential based on factors other than the factor or factors alleged by Plaintiffs.

### **AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

107. Defendants, at all times, acted in good faith to comply with the New York Labor Law and the Fair Labor Standards Act, and with reasonable grounds to believe that their actions did not violate the statutes cited in the Complaint, with respect to Plaintiffs, and Defendants assert a lack of willfulness or intent to violate the New York State Labor Law and the Fair Labor Standards Act as a defense to any claim by Plaintiffs for liquidated damages.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

108. Plaintiffs' claims are barred in whole or in part to the extent that the work they performed falls within exemptions, exclusions, exceptions, or credits provided under the New York Labor Law and Fair Labor Standards Act.

**AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE**

109. In addition to the foregoing defenses, Defendants reserve the right to amend their Answer to raise any and all other additional affirmative and other defenses that may become evident during discovery and during any other proceeding in this action or pursue any available counterclaims against Plaintiff or any putative class member who joins this action as those claims become known during this litigation.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

110. If Plaintiff succeed in establishing any violation under the New York Labor Law and the Fair Labor Standards Act, and to the extent any sums are found due and owing to Plaintiffs, which is expressly denied, Defendants are entitled to a set-off against said sum to the extent paid, tendered, waived, compromised, and/or released prior to the adjudication herein, including but not limited to those amounts paid, tendered, waived, compromised, and/or released through any other proceeding, either formal or informal, or to the extent any additional compensation was paid to Plaintiffs over and above their wages. Any claim for additional compensation by Plaintiffs must be reduced by compensation already paid to Plaintiffs for periods not compensable under the New York State Labor Law and the Fair Labor Standards Act.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

111. To the extent that the Complaint alleges any adverse employment action by Defendants against Plaintiffs, any such action is de minimis.

WHEREFORE, Defendants ZYARA RESTAURANT CORP. and FERA ALZUGHIER demand that the Complaint in this action be dismissed against them in its entirety.

Dated: New York, New York  
March 8, 2022

Yours, etc.,

**Helbraun & Levey LLP**  
*Attorney for Defendants*

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